

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

SEP 30 2015

Clerk, U.S. District Court
District Of Montana
Missoula

K. TY POULSON,

Plaintiff,

vs.

EXECUTIVE DIRECTOR OF
CONNECTIONS CORRECTIONS,
MARK JOHNSON, and PAUL SELLS,

Defendants.

CV 15-70-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his findings and recommendation in this case on July 20, 2015, recommending denial of what Judge Lynch construed as a motion to proceed in forma pauperis. Poulson failed to timely object to the findings and recommendations, and so waived the right to *de novo* review of the record. 28 U.S.C. § 636(b)(1). The Court will therefore review the record for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). For the reasons explained below, the Court adopts Judge Lynch’s findings and recommendation in

full.

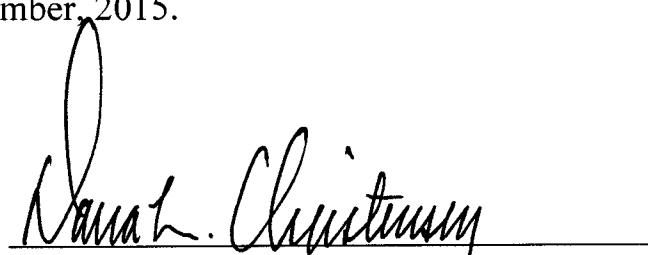
Judge Lynch construed Poulson's pending motion, styled a "Motion to Support Imminent Danger" (Doc. 2 at 1), as a motion to proceed in forma pauperis specifically tiered to a provision of the Court's Local Rules. Local Civil Rule 3.1(d)(4) provides that "[a] prisoner, as defined by 28 U.S.C. § 1915(h), may not maintain more than two (2) concurrent non-habeas actions in forma pauperis" unless, among other things, he "show[s] that he is in imminent danger of serious physical injury" pursuant to subsection (A), or subsequently "pay[s] the full filing fee for one or more of the pending or proposed actions" pursuant to subsection (B). Judge Lynch found that Poulson is currently litigating two cases in this Court, CV 14-43-H-DLC-JTJ and CV 14-185-M-DLC-JCL. Consequently, Judge Lynch issued an order on June 23, 2015 directing Poulson to make the requisite showing, or risk denial of his motion and dismissal of this matter. Poulson failed to respond. Accordingly, Judge Lynch recommends denying Poulson's motion as construed, but leaving the matter open for a period of thirty days in the event Poulson wishes to pay the filing fee. The Court finds no clear error in Judge Lynch's findings and recommendations on these issues.

Accordingly, IT IS ORDERED that Judge Lynch's findings and recommendations (Doc. 4) are ADOPTED IN FULL. Poulson's Motion to

Support Imminent Danger (Doc. 2), construed as a Motion to Proceed in Forma Pauperis, is DENIED. The Clerk of Court shall close this matter within thirty days of the date of this Order should Poulson fail to pay the \$400.00 filing fee.

At all times during the pendency of this action, Poulson shall immediately advise the Court of any change of address and its effective date.

DATED this 30th day of September, 2015.



Dana L. Christensen, Chief Judge
United States District Court